

1 UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF NEW JERSEY

3 CIVIL ACTION NUMBER:

4 IN RE: VALSARTAN PRODUCTS 19-md-02875  
5 LIABILITY LITIGATION

6 STATUS CONFERENCE VIA  
ZOOM VIDEOCONFERENCE

7 Mitchell H. Cohen Building & U.S. Courthouse  
8 4th & Cooper Streets  
9 Camden, New Jersey 08101  
December 14, 2022  
Commencing at 4:04 p.m.

10 B E F O R E: THE HONORABLE THOMAS I. VANASKIE (RET.)  
11 SPECIAL MASTER

12 A P P E A R A N C E S:

13  
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24 Proceedings recorded by mechanical stenography; transcript  
25 produced by computer-aided transcription.

**A P P E A R A N C E S (Continued) :**

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**ALSO PRESENT:**

LORETTA SMITH, ESQUIRE  
Judicial Law Clerk to The Honorable Robert B. Kugler  
  
Larry MacStravic, Courtroom Deputy

1 (PROCEEDINGS held via Zoom before SPECIAL MASTER  
2 THOMAS I. VANASKIE at 4:04 p.m.)

3 SPECIAL MASTER VANASKIE: Are you going to be the  
4 spokesperson for plaintiffs today?

5 MR. SLATER: Only on the scheduling issue with the  
6 experts. I think the other issues, other people probably will  
7 speak to them.

8 SPECIAL MASTER VANASKIE: Very well.

9 And you know the drill here. Keep your phones muted,  
10 please. If you need to put us on hold, please make sure we're  
11 not going to be listening to elevator music. And don't put us  
12 on hold if you can avoid it. You can mute us, but don't put  
13 us on hold.

14 And I think we're ready to get started.

15 We'll address the question of scheduling first. And  
16 I wanted to see where things stand with respect to the  
17 deadlines for defense liability expert reports.

18 Who's addressing this issue for the defense?

19 MR. BERNARDO: Rich Bernardo, Your Honor, counsel for  
20 ZHP.

21 How are you today?

22 SPECIAL MASTER VANASKIE: I'm well, Mr. Bernardo.

23 MR. BERNARDO: I'm also in a real office or at least  
24 an office.

25 SPECIAL MASTER VANASKIE: Well, where do we stand on

1 this?

2 MR. BERNARDO: I think we've been working very  
3 cooperatively with Mr. Slater, which I appreciate.

4 As I think we mentioned in our letter, there were a  
5 couple of experts who just had some illness issues that have  
6 caused us to ask for an extra few days, four days to be  
7 specific, for two ZHP experts, and I also understand there was  
8 an issue with one Torrent-specific expert asking for two or  
9 three days.

10 So the schedule would stand that -- again, subject to  
11 plaintiffs' agreement, but this is where I think we are, that  
12 the three Teva-specific expert reports and two defense shared  
13 reports would go out on Monday as scheduled, and then on  
14 Thursday there would be the one Torrent-specific report, and  
15 then on Friday there would be the two ZHP-specific reports.

16 And this has also caused a couple of other dates to  
17 have to slide, largely to give plaintiffs an opportunity to I  
18 guess digest the reports. So we're trying to move one of the  
19 experts. I know -- I don't know if there's anything to report  
20 on that, but trying try to move one of them into early  
21 February, taking into account both counsel's schedules with  
22 ZHP's responding expert to follow. And I know -- and Teva can  
23 respond, but I know they're also trying to come up with a  
24 stipulation to not have to have their experts follow that.

25 So that was a very long answer, Your Honor, but I

1 think we're coming toward some agreement. And I'll let Adam  
2 tell the Court where we are in response to what I had sent out  
3 earlier today.

4 SPECIAL MASTER VANASKIE: All right. Mr. Slater.

5 MR. SLATER: Yes, Judge, I think that everything  
6 Mr. Bernardo said is correct.

7 Obviously, if there's issues that hold up the  
8 reports, we understand the Court's view to that, and we want  
9 to work with the defense.

10 We just -- the issue that came up for us is if the  
11 reports come right before Christmas, Christmas is already a  
12 loss, so it pushes things into the month of January. And  
13 we're waiting to hear back from two experts about pushing  
14 their depositions about a week. And the other expert,  
15 Dr. Bain, we've confirmed she can be deposed the very  
16 beginning of February. So that works fine.

17 And then we've agreed that ZHP can then produce their  
18 responsive expert after that, which makes a lot of sense. The  
19 plaintiff expert will go first, then the defense expert.

20 And Teva had some concerns that we spoke about, which  
21 I can't imagine we're not going to work out, just to give them  
22 some comfort on this.

23 The only thing is just figuring out if that affects  
24 any other deadlines and how it does, which I don't know that  
25 we really have to burden you with that today, because my

1 assumption is that -- we're just waiting to hear back from two  
2 of the experts. They just, for whatever reason, didn't get  
3 back to us today after we spoke this morning.

4           Once we get that worked out, I think we'll be able to  
5 very quickly provide Your Honor some proposed adjustments that  
6 should be pretty minor, by a few weeks for a few things. And  
7 we're okay with that, because we think that obviously over the  
8 holidays and with illnesses, we have to do the best we can.

9           SPECIAL MASTER VANASKIE: Sure.

10           Who's on the phone for Teva?

11           MS. LOCKARD: Hi, Judge Vanaskie. It's Victoria  
12 Lockard from Greenberg Traurig. How are you?

13           SPECIAL MASTER VANASKIE: Good. How are you?

14           MS. LOCKARD: Good. I'm great.

15           So I can tell you what our situation is. We are  
16 planning on behalf of Teva to submit our expert reports by the  
17 original deadline. We're not asking for any extensions. We  
18 have our witnesses gathering dates for us with anticipation  
19 that we would be able to provide their depositions by the  
20 January 31st deadline or within a day or two after.

21           The issue that we spoke about with Mr. Bernardo and  
22 Mr. Slater relates to their witness, plaintiffs' witness,  
23 Susan Bain. And we did not want to have any of plaintiffs'  
24 experts be deposed after Teva's experts. I mean, frankly, our  
25 position, and based on the scheduling order, was intended I

1 think so that we would get the benefit of plaintiffs' experts  
2 deposition testimony before ours are deposed and respond to  
3 those criticisms.

4 In speaking with Mr. Slater, it appears that Susan  
5 Bain would be the only one who would have to go after Teva's  
6 experts. And he has assured us that she will not have  
7 opinions or criticisms that stray beyond her report, and her  
8 report on its face does not apply to Teva in terms of opinions  
9 or criticisms. And we wanted to get some sort of stipulation  
10 agreed upon in writing so that we both have some clarity on  
11 that.

12 What we don't want to do is have our experts be  
13 deposed and then have Susan Bain be deposed subsequently and  
14 come up with, you know, opinions that pertain to Teva and then  
15 have our experts not available to respond to those criticisms.

16 Mr. Slater says that's not going to happen. I agree.  
17 I think we'll be able to work it out. But, you know, it's  
18 always through the devil in the details.

19 So we'll endeavor to try to get that resolved and get  
20 that committed to writing so that we can get everything  
21 squared away and we'll move on, move forward.

22 SPECIAL MASTER VANASKIE: It sounds like everything  
23 is agreeable.

24 MR. SLATER: It does, Your Honor. And as Ms. Lockard  
25 said, Dr. Bain wrote a report with CGMP opinions pertaining to

1 ZHP and the ZHP companies. She offered no opinions regarding  
2 Teva or Torrent.

3 SPECIAL MASTER VANASKIE: Okay. All right.

4 MR. SLATER: We have a different expert with regard  
5 to Teva and Torrent.

6 SPECIAL MASTER VANASKIE: So what's our next step  
7 here? Are you going to reduce this to a stipulation or reduce  
8 it to a writing?

9 MR. SLATER: I would think probably just an exchange  
10 of a letter or an email or something would be sufficient. But  
11 I've said it on the record now, her report does not set forth  
12 opinions blaming Teva or Torrent. That's not what her report  
13 is. Her report focuses on ZHP and its companies. So that's  
14 what her report says, so I wouldn't anticipate her -- unless  
15 somebody wants to ask her questions beyond the opinions in her  
16 report, which I can't stop somebody else from asking opinions,  
17 but, you know, that's not her intent. She intends to offer  
18 opinions pertaining to ZHP and ZHP companies.

19 SPECIAL MASTER VANASKIE: All right.

20 Is that satisfactory, Ms. Lockard?

21 MS. LOCKARD: We had -- based on our discussions, we  
22 had begun drafting a stipulation. We may be able to agree  
23 based on the representation on the record.

24 I just want to be absolutely certain that Susan Bain  
25 is not going to come back and respond to something that our



1 experts have said in their depositions that take place  
2 earlier.

3 As long as the commitment is that she will not stray  
4 beyond what is in her expert reports and that those opinions  
5 in her expert report will not be used against Teva, then I  
6 think we have an agreement.

7 SPECIAL MASTER VANASKIE: All right. Mr. Slater, do  
8 we have an agreement?

9 MR. SLATER: Let me look at what's written down.  
10 There's some fairly broad language in there. I mean, I'd have  
11 to look at what it says.

12 SPECIAL MASTER VANASKIE: Understood.

13 MR. SLATER: I can just again -- I have an expert who  
14 wrote a report focusing on ZHP. Her opinions pertain to ZHP.  
15 That's who she focused on. That's where her criticisms are as  
16 to CGMP issues. She had no CGMP criticisms of Teva or Torrent  
17 in her report.

18 SPECIAL MASTER VANASKIE: Okay. Very well.

19 All right. So I'll just put this down in the  
20 category of to be continued, but it looks like it's pretty  
21 complete.

22 MR. BERNARDO: Thank you, Your Honor.

23 SPECIAL MASTER VANASKIE: Thank you. Let's talk now  
24 about the losartan and irbesartan fact sheets.

25 Marlene, are you going to be addressing this issue?

1 MS. GOLDENBERG: That's me, Your Honor. How are you?

2 SPECIAL MASTER VANASKIE: Ms. Goldenberg, I'm sorry.

3 Yes.

4 I'm well. Thank you.

5 MS. GOLDENBERG: Marlene is fine.

6 SPECIAL MASTER VANASKIE: All right.

7 MS. GOLDENBERG: And I'm happy to start. I don't  
8 know if the defendants are -- who is speaking for them, but I  
9 think you saw from our agenda letter that thankfully we've had  
10 some very productive meet and confers. We're down to really  
11 just one subissue that's left. And it's the question of who  
12 has to do this and what do they have to do.

13 So, you know, our position is that the plaintiffs who  
14 filed these mixed-use cases of course have already filed very  
15 lengthy, I think 40-some pages, plaintiff fact sheets of  
16 information. And, you know, the claims that each client has,  
17 their cancer cases and their medical history is the same,  
18 their medical records are the same, their medical bills are  
19 the same, and everything else is the same, except now they're  
20 just, you know, disclosing what is already in their Complaint,  
21 which is that they took contaminated losartan or irbesartan.

22 Based on that, you know, I understand that the  
23 defendants put in their agenda letter that plaintiffs weren't  
24 answering questions with -- with anything other than valsartan  
25 in mind, but that really just isn't true, because the injuries

1 are the same and so is everything else that I just listed.

2           So what we've offered is for those plaintiffs to  
3 submit a supplement, which really is just the use section that  
4 gives the defendants all the information they would need about  
5 the contaminated products that they took, losartan and/or  
6 irbesartan, but there really isn't any reason to require  
7 plaintiffs to engage in this copy/paste operation that I  
8 should add is now more complicated because the defendants --  
9 you know, we accommodated many of their requests to reorganize  
10 sections in the plaintiff fact sheet. So what otherwise might  
11 have been a simple, you know, select all and paste really  
12 isn't going to be that. We're going to have to compare each  
13 and every question and paste in the exact same information  
14 that they already have. So it's really just a pragmatic  
15 question.

16           SPECIAL MASTER VANASKIE: Uh-huh. Very well.

17           Who is addressing this issue for the defense?

18           MS. DEAL: Good afternoon, Your Honor. This Kate  
19 Deal of Morgan Lewis. I'll be addressing this issue on behalf  
20 of the defense group.

21           SPECIAL MASTER VANASKIE: Good afternoon, Ms. Deal.

22           MS. DEAL: So, Your Honor, you know, I think it is --  
23 it's great news that we don't have any disputes left as to the  
24 form or substance of the revised PFS. And as counsel said,  
25 the only question that's left for Your Honor's consideration

1 is whether plaintiffs who used multiple products and are  
2 asserting claims under multiple sartans and who have completed  
3 the valsartan-only PFS, whether they should complete the new  
4 PFS that covers the additional products and their additional  
5 claims. And we think for several reasons the answer is yes.

6 And first, obviously for consistency and uniformity  
7 purposes, it makes good sense to have one comprehensive fact  
8 sheet that covers all three implicated sartans and the claims  
9 based upon those different drugs for each plaintiff and  
10 particularly for multi-use plaintiffs, rather than trying to  
11 do a piecemeal approach where facts and claims from the same  
12 plaintiff as to multiple drugs are cobbled together with  
13 additional forms or addenda.

14 And second, Your Honor, the plaintiffs' alternative  
15 proposal in our view really doesn't work because it doesn't  
16 actually provide the parties with the requisite information as  
17 to each sartan.

18 As counsel just stated, plaintiffs have suggested  
19 using the valsartan-only fact sheet and then appending simply  
20 product usage information as to losartan and irbesartan.

21 But the reality is the plaintiffs who have used  
22 multiple drugs implicated in the MDL, they have to provide  
23 facts pertaining to their claimed damages, their claimed  
24 injuries; their alleged advertising exposure as to each drug  
25 implicated in their claims; alleged fraud; alleged instructions

1 from their prescribers, which may be different depending upon  
2 the drug at issue; discussions with those prescribers;  
3 communications with the defendants for each implicated  
4 product; their possession of product labeling or packaging  
5 among a variety of other claims, including documentation. And  
6 it's not sufficient to simply have that for a valsartan claim  
7 and then be left to guess or speculate which, if any, of that  
8 information is the same for losartan or irbesartan. Right?  
9 We need that information for all of the sartans that are  
10 forming the basis of any particular multi-use plaintiff's  
11 claims. And so the alternative proposal, it just doesn't work  
12 because it doesn't provide that information.

13           So what we've done here is taken a more comprehensive  
14 and streamlined and hopefully more organized approach, which  
15 carries the benefit of the years of experience we've had thus  
16 far in the MDL, where these multi-use plaintiffs will  
17 simply -- you know, they've already collected the valsartan  
18 information, and they will have to fill out a comprehensive  
19 form as to irbesartan or losartan in any event.

20           And so we're simple asking them to do one  
21 comprehensive form. We think it makes the most sense. It  
22 provides all the requisite information. It keeps things  
23 organized. It provides consistency and uniformity.

24           Now, I want to address the concern that plaintiffs  
25 have raised in their letter to the Court where they suggested

1 that they were concerned that for multi-use plaintiffs who had  
2 done a valsartan-only PFS, to the extent they have provided  
3 full and complete information in that PFS as to valsartan,  
4 they were concerned that this would be some kind of gotcha  
5 exercise where defendants would try to dismiss claims based  
6 upon the revised PFS.

7 And it really isn't that, Your Honor. If a plaintiff  
8 has already provided full valsartan information, there really  
9 shouldn't be a risk of dismissal of the valsartan claims for  
10 deficiencies in the revised PFS as to the other drugs.

11 I mean, for one thing, it's sort of unreasonable and  
12 counterfactual to assume that plaintiffs and their counsel  
13 wouldn't provide the same information in the revised form that  
14 they provided in the original form.

15 But to the extent there is a discrepancy, say there's  
16 an error or something occurs, obviously that can be rectified  
17 in the meet-and-confer process that's already part of the  
18 existing order to show cause protocol.

19 If in that circumstance the plaintiffs say, oh, you  
20 know what, we provided this information previously, we missed  
21 it in the revised PFS, they can point to that, and we can  
22 easily work that out. But to assume that that's going to be  
23 an extensive problem I think is sort of unreasonable and  
24 counterfactual in that kind of a circumstance.

25 So for all of those reasons, Your Honor, the defense

1 group thinks that it's important to have the multi-use  
2 plaintiffs provide a comprehensive PFS that covers all of the  
3 products upon which they're basing claims.

4 SPECIAL MASTER VANASKIE: All right. Do we have an  
5 estimate of the number of multi-use plaintiffs there may be?

6 MS. GOLDENBERG: I think we're probably not  
7 talking -- and this is me guessing, Your Honor, so I'll have  
8 to go back and check the docket, but I think we're talking  
9 under 200 people.

10 I can say the easiest solution to everything that  
11 Ms. Deal was just suggesting is that, you know, with all  
12 discovery, there's a duty to supplement. Right? And so if  
13 those answers are different for any plaintiff, and for some  
14 reason they had a conversation with their physician that was  
15 confined exclusively to irbesartan and not to valsartan, we  
16 all understand we have a duty to supplement discovery just the  
17 way the defendants do. But I still don't think that's a  
18 reason to make people copy and paste information 40 pages --  
19 you know, 40 pages worth of information.

20 We can give them the use information, but the injury  
21 claims are all going to be the same. So are the records and  
22 everything there.

23 MS. DEAL: Your Honor, they're obviously not going to  
24 be the same. Prescribing records for different drugs by  
25 different prescribers on different dates of time are not the

1 same.

2 And so the notion that a valsartan fact sheet, we  
3 said for valsartan we need these, you know, 40 pages of  
4 information. We need the same information for every  
5 implicated drug. And the notion that you can say, oh, for  
6 valsartan, all of these answers are going to be the same for  
7 other drugs that could be prescribed different dates of time,  
8 the injuries could be different, depending upon what was taken  
9 when, their exposure to defendants, who the defendants are,  
10 their exposure to advertising, all of the things that we've  
11 said have been necessary from the start for valsartan are  
12 necessary for all of the implicated drugs.

13 And so the notion that you can just base claims for  
14 irbesartan or losartan off of a valsartan-only fact sheet and  
15 simply add an addendum that says, here's the product usage  
16 data for these other implicated drugs, it just makes no sense.

17 SPECIAL MASTER VANASKIE: But it does appear to me  
18 that there are questions on the fact sheet that aren't -- the  
19 answers to which aren't dependent upon which drug you took,  
20 what sartan you took, you know, things about the personal  
21 history of the claimant, educational history, employment  
22 history, that all will stay the same. Exposure to cadmium,  
23 coal industry, whether your diet includes red or processed  
24 meats, all of that would stay the same.

25 Are you suggesting it would not be appropriate for a



1 mixed-use plaintiff to respond by referencing the already  
2 adequate fact statement that has been submitted? Because I  
3 think we can presume these will be plaintiffs whose fact  
4 statements have survived the initial review.

5 MS. DEAL: I mean, to the extent that the underlying  
6 facts about who they are and where they live and where they've  
7 worked are the same and continue to be the same, I assume that  
8 they would be the same.

9 But my point, Your Honor, is that the drug  
10 information and all of the categories of information about  
11 drug use, drug history, prescriber information, claimed  
12 injuries, defendant advertising, all of that is going to be --  
13 or potentially could be different. And so we want to make  
14 sure we had all of that information for every implicated  
15 product.

16 And the way we've done this form, which has been  
17 agreed upon by both sides. Right?

18 SPECIAL MASTER VANASKIE: Right.

19 MS. DEAL: We all this think this makes sense and is  
20 an organized way to do this. And maybe particularly for  
21 multi-use plaintiffs who have multiple products that they've  
22 used that are implicated and form the basis of their claims.  
23 Right? Our concern is simply for all of that information,  
24 which is the heart of the plaintiff fact sheet, we can't  
25 simply rely on what was said as to valsartan and then look

1 simply to an addendum that says, I took losartan and  
2 irbesartan at these periods of time as well. Right? I mean,  
3 that leaves out huge swaths of information about those other  
4 drugs that are potentially equally implicated in those  
5 plaintiffs' claims.

6 SPECIAL MASTER VANASKIE: It would be helpful for me,  
7 I suppose, if I knew exactly what questions would need to be  
8 answered for the mixed-use plaintiffs.

9 As I said, you know, going through this, it seemed to  
10 me that some of the questions would not be  
11 substance-dependent. It wouldn't be dependent upon which drug  
12 they took. Others would be.

13 And I guess you're suggesting it would be too  
14 difficult to just -- it would be easier to say, complete the  
15 whole fact statement.

16 MS. DEAL: That's correct, Your Honor. We're trying  
17 to be conscious on both sides of the fence here.

18 It wouldn't be a burden, but these are people -- with  
19 respect to their valsartan information, it's all been  
20 collected. And especially for the valsartan folks who have  
21 full and accurate and complete information, they're  
22 represented by counsel. And it just seems collectively a  
23 better idea to try to have one comprehensive document, carry  
24 that information over.

25 If there's an error, if there's some sort of

1 discrepancy, we can work that out. If the plaintiff counsel  
2 points back to the original fact sheet and says, oh, here it  
3 is, you know, I overlooked it, then that's resolved and it  
4 never gets to the Court.

5 My concern is that for consistency, for uniformity,  
6 and also to make sure we have all of the information we need  
7 for all of these different drugs for each claimant, it just  
8 makes sense to have it organized in this fashion, given that  
9 we've now expanded the MDL to include these products and these  
10 claims.

11 And I think it's going to be harder for everyone to  
12 try to create a special process for this set of plaintiffs and  
13 have people referring back and forth to different documents or  
14 an addendum that's incomplete and have a totally different  
15 process for those people than the one that will be used for  
16 every other plaintiff going forward in the MDL.

17 MS. GOLDENBERG: Your Honor, I think where you might  
18 have been going was what I was going to suggest, which is, you  
19 know, if the defendants can find questions that aren't  
20 duplicative, we're willing to consider those. But in looking  
21 at the first half of the plaintiff fact sheet, there's not a  
22 single question that hasn't been answered where the answer  
23 would change.

24 And going through the second half of it, most of it's  
25 not going to change.

1 And, you know, obviously counsel disagrees with me,  
2 and that's fine. But if they can narrow the set of issues  
3 that they want people answering twice, we're willing to take  
4 another look. But otherwise, our position stands.

5 MS. DEAL: And Your Honor, I would say with respect  
6 to -- I mean, it really is just filling out the form. Right?  
7 And you'd have to fill out the form anyway to add losartan or  
8 irbesartan. It's really, like, what is the burden and what  
9 makes the most sense.

10 I mean, so we're going to have these people have half  
11 of this sheet and then refer back to the first half of the  
12 other sheet? I mean, what is the real burden to just fill out  
13 the complete form when you're represented by counsel and this  
14 stuff is duplicative, you're telling us you already have and  
15 you've already submitted.

16 You know, I really -- I think it creates more  
17 problems to try and piecemeal things out in that fashion.  
18 It's going to be messier.

19 MS. GOLDENBERG: The burden is that a lot of it's  
20 being reorganized, and that again -- I mean, we've already  
21 answered these questions. And if this were standard  
22 discovery, I mean, we would insert an objection that this is  
23 duplicative and we wouldn't answer it. And I think there  
24 would be pretty good grounds for it, because we have.

25 MS. DEAL: And Your Honor, the other piece of it is,

1 you know, obviously, to the extent there's medical records  
2 that have already been, you know, produced, they've been  
3 uploaded, that doesn't have to occur again. It's literally  
4 filling out the form in a comprehensive fashion so that  
5 everyone doesn't have to refer back or use a different  
6 addendum for a special set of claims and have fights about is  
7 this complete, do we have what we need, this is inconsistent  
8 with how we're taking an approach with every other plaintiff.  
9 You know, what makes the most sense.

10 SPECIAL MASTER VANASKIE: Would it make sense to just  
11 have these mixed-use plaintiffs complete the claim information  
12 section of the form, section III?

13 Some of it would be duplicative, I understand that.

14 I guess, Ms. Goldenberg, my question to you would be,  
15 which question or questions on this plaintiff's fact statement  
16 would be completed by those plaintiffs who already submitted a  
17 valsartan PFS?

18 MS. GOLDENBERG: Certainly everything before the  
19 claim information section which you just flagged, Your Honor,  
20 so pages 1 through 15, it's all going to be identical, from  
21 what I can tell. I'm just skimming it again to make sure.  
22 But I didn't see anything that would change from pages 1  
23 through 15.

24 And then once we get to the claim information, it's  
25 about 50/50. Questions about the cancer, not going to change.

1 Questions about advertisements, I mean, they're there, but I'd  
2 be hard pressed to find a plaintiff who's actually seen an  
3 advertisement from a generic drug manufacturer.

4 All the injury stuff should be the same, because it's  
5 the same injury that they're claiming. So anything about  
6 that. Anything about medical history is going to be the same.  
7 Their educational history, their lost wages are going to be  
8 the same. Their medical expenses are going to be the same.

9 I mean, I can go through the whole thing. What I --  
10 I'd rather not waste Your Honor's time, but suffice it to say,  
11 the vast majority is not going to be different.

12 But again, if defendants feel that they need more, I  
13 would like to hear what that is, maybe in a meet and confer.  
14 And then we can come back to you if we still have a dispute.  
15 But I just don't see the reason to redo this whole thing. And  
16 I know that the defendants would never agree to do the same if  
17 the tables were turned.

18 MS. DEAL: Your Honor, with all due respect, the  
19 defendants have just gone through pretty extensive discovery,  
20 producing a lot of things that have been duplicative of  
21 valsartan discovery. We're simply asking the plaintiffs to  
22 fill out a fact sheet and do it in an organized fashion that  
23 consolidates multi-use plaintiffs claims in one document.

24 The notion that they have to put their name and their  
25 educational history twice, with the assistance of counsel, and

1 the -- you know, we're going to cut this up in that fashion  
2 and have four different forms and you have to refer back and  
3 forth because that's too burdensome is I think sort of a  
4 remarkable position to take.

5 And certainly given the amount of discovery that the  
6 defendants have produced in terms of the burden of discovery,  
7 you know, I don't think that's an argument that carries water  
8 in this context.

9 SPECIAL MASTER VANASKIE: Why wouldn't it be  
10 appropriate, Ms. Deal, for a plaintiff, when he gets to the  
11 question that asks for, list all major hospitalizations,  
12 surgeries and/or procedures undergone in the last ten years,  
13 to simply refer back to the valsartan PFS?

14 MS. DEAL: I guess we could do that, and we could go  
15 through and piecemeal it that way, but then we don't have one  
16 comprehensive PFS. We have to go back and forth. And there  
17 will be more disputes I'm sure about that process than if we  
18 asked them to just copy and paste their medical history to  
19 both forms.

20 You know, if we want to Frankenstein it and, you  
21 know, do it, I guess we can, but I just don't see the value of  
22 it. And I don't see -- you know, with all due respect, I  
23 don't think this is an unreasonable burden for less than 200  
24 plaintiffs who are now expanding their claims to include  
25 additional drugs and additional claims based on those drugs.

1           It really is very basic information, and we are  
2 trying to do it -- take an approach here that keeps it simple,  
3 consistent, organized and efficient for everyone involved so  
4 we don't have to come back six times to the Court and try to  
5 do a process that is inconsistent with the process we're using  
6 for everyone else because plaintiffs don't want to put their  
7 employment history twice into two different forms.

8           SPECIAL MASTER VANASKIE: Could you come up with -- I  
9 don't want to belabor this, but couldn't you come up with a  
10 mixed-use plaintiff form? We're only talking -- we're talking  
11 about those who have submitted an acceptable PFS already, so  
12 they're going to have their claim proceed no matter what as to  
13 valsartan. Why not have -- why not put your heads together  
14 and come up with a mixed-use claimant form where you can have  
15 it all in one place for the mixed-use plaintiffs?

16           Well, you have it in two places. You have it in the  
17 valsartan PFS and the mixed-use PFS.

18           MS. GOLDENBERG: I think that's fine, Your Honor. I  
19 mean, it's really no different than any other case where you  
20 supplement your discovery and you've got two documents. I  
21 mean, that's fine with us.

22           SPECIAL MASTER VANASKIE: Uh-huh. Ms. Deal?

23           MS. DEAL: I mean, we'll follow the Court's  
24 instructions.

25           SPECIAL MASTER VANASKIE: Fine.



1 MS. DEAL: You know, we'll also have separate PFSs  
2 for medical monitoring claims and the other claims. This is  
3 really just the personal injury PFS that we've presented to  
4 the Court.

5 SPECIAL MASTER VANASKIE: All right. Well, I'm going  
6 to suggest that you get together and come up with a mixed-use  
7 plaintiff PFS so that we can avoid some of the duplication  
8 that would occur by having a new PFS completed by those who  
9 already completed an acceptable PFS. All right?

10 MS. GOLDENBERG: Understood. Thanks, Your Honor.

11 MS. DEAL: Thank you, Your Honor.

12 SPECIAL MASTER VANASKIE: Is there anything else for  
13 today?

14 MR. SLATER: I don't believe so, Judge.

15 SPECIAL MASTER VANASKIE: All right. Anything else  
16 from the defense perspective?

17 MR. HUNCHUCK: Your Honor, this is -- let me turn my  
18 camera on. This is Steven Hunchuck from Morgan Lewis.

19 Is the Court intending to enter this fact sheet for  
20 the remaining defendants today?

21 MR. SLATER: What?

22 SPECIAL MASTER VANASKIE: Oh, I hadn't thought about  
23 that.

24 I don't see why we couldn't have it entered for the  
25 remaining defendants --

1 MR. HUNCHUCK: I'm sorry, I meant plaintiffs. Sorry.

2 SPECIAL MASTER VANASKIE: Oh, for the remaining  
3 plaintiffs.

4 Yeah, I don't see why it couldn't be entered for the  
5 remaining plaintiffs and get that on the record.

6 Do you, Ms. Goldenberg?

7 MS. GOLDENBERG: No. I think that's fine, as long as  
8 the order entering it is clear that it only applies to  
9 plaintiffs with newly filed cases after I suppose it would be  
10 today or cases that are purely losartan or irbesartan and not  
11 to plaintiffs who have previously filed a fact sheet.

12 SPECIAL MASTER VANASKIE: Yeah.

13 MS. GOLDENBERG: If you'd like a proposed order, we  
14 can --

15 SPECIAL MASTER VANASKIE: It does get a little  
16 complicated.

17 MS. GOLDENBERG: -- put our heads together and get  
18 that to you too.

19 SPECIAL MASTER VANASKIE: Yes. Why don't you do  
20 that, because I did have notes there in terms of who would  
21 have to complete the PFS. And I think it would be helpful if  
22 you all could agree on what the order says and submit it to  
23 me.

24 MS. GOLDENBERG: Sure thing.

25 SPECIAL MASTER VANASKIE: All right. Anything else?

1 (No response.)

2 SPECIAL MASTER VANASKIE: All right. Thank you all  
3 very much.

4 I probably won't get a chance to talk to you again  
5 before the new year, so I wish you all happy holidays and a  
6 healthy and happy new year and a prosperous new year for you  
7 all.

8 RESPONSE: Thank you. Same to you, Judge.

9 SPECIAL MASTER VANASKIE: Take care. Bye-bye.

10 (Proceedings concluded at 4:37 p.m.)

11 - - -

12 I certify that the foregoing is a correct transcript  
13 from the record of proceedings in the above-entitled matter.

14 /S/ Ann Marie Mitchell  
15 CRR, RDR, RMR, CCR-NJ  
Official Court Reporter

16 16th day of December, 2022  
17 Date

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